

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

KENNETH AND PAMELA PRICE JEAN *

*

Plaintiffs *

*

v. *

*

CITY OF ASHBURNHAM POLICE *

DEPARTMENT, CITY OF WINCHENDON *

POLICE DEPARTMENT, ROB HARRINGTON, *

in his capacity as CHIEF OF THE WINCHENDON * C.A. NO. 03-12306PBS

POLICE DEPARTMENT, JACK MURRY, in his *

capacity as CHIEF OF THE ASHBURNHAM *

POLICE DEPARTMENT, TODD C. PARSONS *

RAYMOND M. ANAIR, ROBERT BRENNON, *

WILLIAM P. GEOFFROY, BRIAN HART, *

KEVIN AHEARN, KEVIN E. WOLSKI *

OFFICER JOHN DOE, OFFICER JOHN POE. *

*

Defendants *

MOTION TO SUBSTITUTE TRUE NAME OF DEFENDANT

Plaintiffs move this Honorable Court allow them to substitute the true name of defendant named in the complaint as Officer John Doe, that name being Officer Gregory Gushlaw, of the defendant Ashburnham Police Department. As reason, plaintiffs state that they did not learn the true name of this defendant until discovery, specifically the depositions of defendants Brennan, Ahearn and Hart, and of Mark Baranowski and Wade Wright, all conducted between June 2, 2005 and June 28, 2005.

There is no prejudice to defendant Gushlaw or any of the other defendants in substituting the true name of defendant Gushlaw, who was identified, albeit not by his true name, in the original complaint, and thus has had notice of this case. All the defendant officers of the Ashburnham Police Department have been represented by the same counsel,

who has known the true name of defendant Gushlaw all along. The defendants have presented a full defense as to all the police officers involved with the several arrests and seizures of the plaintiffs. The defense that has been offered by them is no different than it would have been had this defendant originally been named by his true name rather than by the identifying information in the complaint.

If the motion were not allowed, prejudice would accrue to the plaintiffs, given the defense that one or some of their wrongful arrests was not by any of "named" defendants but by other unnamed or unidentified individuals.

Respectfully submitted,
Pamela Jean
by her counsel,

/s/ Mark D. Stern
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Respectfully submitted,
Kenneth Jean
by his counsel

/s/ Andrew M. Fischer
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CERTIFICATE OF SERVICE

I, Andrew M. Fischer, hereby certify that on this date I served a copy of the above document on the parties by mailing a copy, first class, postage prepaid to John J. Cloherty, III, Pierce, Davis, Perritano, LLP, Ten Winthrop Square, Boston, MA 02110; Regina Ryan, Merrick, Louison & Costello, 67 Batterymarch Street, Boston, MA 02110; Austin M. Joyce, Edward P. Reardon, P.C., 397 Grove Street, Worcester, MA 01605; Nancy Frankel Pelletier, Robinson Donovan, P.C., 1500 Main Street, Ste. 1600, Springfield, MA 01115-5609 and to Mark Stern, 34 Liberty Avenue, Somerville, MA 02144.

Date: August 1, 2005
jean\mtsubname4

/s/ Andrew M. Fischer
Andrew M. Fischer